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*Original: Drum misfired*  
*cc: M. Wright*  
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# Fax

**To:** Lowell P. Braxton**Company:** DOGM**Fax:** 801/359-3940**Phone:****Pages (including this cover sheet):** 4**Date:** September 24, 1997**Re:** Docket 97-009 Cause M/027/007**CC:** Daniel Moquin

☐ **Urgent**    ☐ **For Review**    ☐ **Please Comment**    ☐ **Please Reply**

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**From:** Chris Hayes**• Comments:****ORIGINAL TO FOLLOW VIA CERTIFIED MAIL**

BEFORE THE DIVISION OF OIL, GAS & MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

Sept 24, 97

In the Matter of the Notice of Agency Action  
to Enforce Violated Minerals Rules, Drum  
Mine, M/027/007, Millard and Juab Counties,  
Utah.

WESTERN STATES  
MINERALS CORPORATION'S  
APPEAL OF AGENCY ACTION and  
MOTION TO STAY

Docket No. 97-009  
Cause No. M/027/007

Western States Minerals Corporation, ("WSMC"), by and through its counsel, hereby notifies the Director of the Division of Oil, Gas and Mining, Utah Department of Natural Resources ("DOGM" and "DNR" respectively), of its intention to appeal the above-captioned Agency Action, notice of which was served on WSMC September 15, 1997. WSMC requests a hearing before the Director DOGM for the purposes of presenting its arguments on appeal. WSMC also requests that the Division's contemplated action be stayed indefinitely, pending the consolidation of this action with a pending formal proceeding before the Board.

A. WSMC objects to the DOGM regarding calculation of bond amount, and bases its appeal on the following grounds:

1. The Agency's action is arbitrary, capricious, an abuse of discretion and contrary to law.
2. The Agency is without authority to require WSMC to increase its bond.
3. The Agency's action is precluded by proceedings pending before the Board of Oil, Gas and Mining, Docket No. 97-009, Case No. M/027/007, in which the Division is seeking a determination by the Board that the Drum Mine has ceased operations, and an order from the Board to Jumbo Mining Company ("JMC"), the current


operator, and WSMC to reclaim the Drum Mine. The Division's current "Notice of Agency Action" is a subterfuge to reach by informal agency action the result they are seeking from the Board, and is duplicative and unnecessary.

B. WSMC requests that the Division's decision be stayed indefinitely. This Agency action is closely related to a request by the Division to the Board for formal agency action. All questions of whether or not activity has ceased at the site, which company is responsible for reclamation, and the correct amount of surety, should be addressed in logical order before the Board. A piecemeal approach is inefficient, wasteful, and potentially harmful to the interests of all parties.

C. For these reasons, WSMC seeks an appeal and stay of the Division's action.

Requested this 24 day of September, 1997.

ALFERS & CARVER, LLC.

  
Christopher G. Hayes  
730 Seventeenth Street, Suite 340  
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(303) 592-7674

Attorneys for Western States Minerals  
Corporation

Certificate of Mailing

I hereby certify that I have this day served the foregoing instrument upon all parties of record in this proceeding by mailing a copy thereof, properly addressed, with postage prepaid, to:

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Lisa A. Beckman, Legal Secretary

The original and one copy of the foregoing instrument was sent, via facsimile transmission and certified U.S. mail, return receipt requested, and postage prepaid to:

Lowell P. Braxton, Acting Director  
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Lisa A. Beckman, Legal Secretary